

STATE OF MICHIGAN
COURT OF APPEALS

WAYNE K. YOUNG, individually and as Personal
Representative of the Estate of YVONNE M.
YOUNG, Deceased,

Plaintiff-Appellant,

V

HOUGHTON LAKE AMBULANCE SERVICE,
RICKIE V. MILLER, RICHARD P. MARTIN,
DANIEL WAITES, JANET A. LOCKWOOD,
JOHN DOE, and JANE DOE,

Defendants-Appellees.

UNPUBLISHED
November 12, 2002

No. 235474
Roscommon Circuit Court
LC No. 99-721386-NH

Before: Griffin, P.J., and Gage and Meter, JJ.

MEMORANDUM.

Plaintiff appeals as of right the order granting defendants' motion for summary disposition on immunity grounds. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff's decedent suffered a cardiac arrest. Defendants provided emergency medical services. The initial responders to the scene attempted to restart decedent's heart using a defibrillator. The machine did not function and a second unit responded to the scene. Defendants were unable to revive plaintiff's decedent.

Plaintiff brought this action alleging that defendants were grossly negligent in failing to test and maintain the defibrillator. The trial court granted summary disposition to defendants, finding no genuine issue of material fact concerning gross negligence or wilful misconduct.

Both MCL 691.1405 and MCL 333.20965 provide immunity for the individual defendants unless an act or omission is the result of gross negligence or wilful misconduct. MCL 691.1407(2)(c) defines gross negligence as conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results. Summary disposition is appropriate only where reasonable minds could not have reached different conclusions with regard to whether the defendants' conduct amounted to gross negligence. *Haberl v Rose*, 225 Mich App 254, 265; 570 NW2d 664 (1997).

While the reasonableness of an actor's conduct is generally a question of fact, if on the basis of the evidence presented, reasonable minds could not differ, the motion for summary disposition should be granted. *Jackson v Saginaw Co*, 458 Mich 141, 146; 580 NW2d 870 (1998). The grant or denial of summary disposition is reviewed de novo by this Court. *Maiden v Rozwood*, 461 Mich 109; 119; 597 NW2d 817 (1999).

Plaintiff failed to present evidence establishing an issue of fact regarding gross negligence. A factfinder could not conclude that the alleged negligence of failing to conduct daily tests of the equipment was so reckless as to demonstrate a substantial lack of concern for whether an injury results where the machine was subject to some degree of inspection and had never malfunctioned in the past.

Affirmed.

/s/ Richard Allen Griffin

/s/ Hilda R. Gage

/s/ Patrick M. Meter